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January 25, 2008

By E-filing and Messenger

Honorable William H. Alsup
District Court Judge
Courtroom 9, 19th Floor
Phillip Burton Federal Building
450 Golden Gate Ave.
San Francisco, CA 94102

Re: *Del Mar Seafoods, Inc. v. Barry Cohen, et al.*
Case No. C-07-02952 (WHA), Federal District Court, Northern District of California
Response to Plaintiff's Request for Production of Tax Schedules
Hearing Date: January 28, 2008
Time: 11:30 a.m.
Place: Courtroom 9, 19th Floor

Your Honor:

Defendants submit this letter in response to Plaintiff Del Mar Seafoods, Inc.'s January 23, 2008 letter to the Court requesting that the Court order Defendants to produce certain tax schedules related to the earnings of the F/V Point Loma ("Response"). Notably, Defendants already provided the requested earnings information in their Second Supplemental Response to Plaintiff's First Set of Interrogatories ("Second Response"). The information in the Second Response was derived directly from the tax schedules prepared by Defendants' accountant. Despite Defendants' cooperation in providing detailed information as to its earnings, as well as the production of a substantial amount of supporting financial information related to the earnings of the F/V Point Loma during discovery, including fish tickets, ice and fuel receipts, payments to the crew and captain, and vessel log sheets, Plaintiff has nevertheless requested that the Court order Defendants' to produce federal income tax "Schedule Cs" relating to the F/V Point Loma's operations for tax years 2004-2007.

Mr. Greg Poulos
January 25, 2008
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The tax schedules are confidential and the production of the requested schedules is duplicative of the information that Defendants have already provided in their Second Response. Nevertheless, in the interest of saving time and additional costs to the Court and both parties, Defendants are, concurrent with the filing of this Response with the Court, providing all of the requested information to Plaintiff as follows:

1. Schedule C (Form 1040), Profit or Loss from Business, for tax year 2004, including 2004 Federal Depreciation Schedule (Bates nos. COHEN 927-929)
2. Form 1120S, US Income Tax Return for an S Corporation for tax year 2005, including Statements 1 and 2 showing taxes and licenses and other deductions (such as expenses, insurance, and other fees) and 2005 Federal Depreciation Schedule (Bates nos. COHEN 930-932). No "Schedule C" was prepared for tax year 2005.
3. Summary of Client Provided Schedules for Tax Year 2006 ("2006 Summary"), including 2006 Federal Depreciation Schedule, prepared by Defendants' accountant (Bates nos. COHEN 933-934). Defendants have not yet completed their Form 1120S tax returns for 2006. The 2006 Summary was compiled by Defendants' accountant in order to prepare the 2006 1120S tax returns which have not been completed as of this date. The interest expense reported for 2006 is an estimated amount.
4. As stated in the Second Response, information for tax year 2007 is undetermined at this time since Defendants have not yet prepared or compiled the information for the 2007 tax year. However, Defendants have produced, as available, underlying information relating to the F/V Point Loma's earnings and operations for 2007 in their discovery responses.

These documents comprise all of the additional information requested by Plaintiff and Defendants' production of these documents to Plaintiff is intended to resolve the discovery matter currently before this Court. We have agreed with Plaintiff that upon Plaintiff's receipt and review of these documents, Plaintiff and Defendants will prepare a notice to the Court requesting that the matter and the hearing set for Monday, January 28, 2008 at 11:30 a.m. be taken off calendar.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Gwen Fanger', with a long horizontal flourish extending to the right.

Gwen Fanger
DAVIS WRIGHT TREMAINE LLP
Attorneys for Defendants Barry Cohen, Chris Cohen, and F/V Point Loma

cc: James Walsh, Esq.
Greg Poulos, Esq.
Max Kelly, Esq.
Rich Wagner, Esq.